

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRD REGION**

**ALBANY HOTEL, INC.,
d/b/a ALBANY CROWNE PLAZA HOTEL**

Employer

and

Case 3-UC-535

**ROCHESTER REGIONAL JOINT BOARD,
LOCAL 471**

Petitioner

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, I find:

The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

The parties stipulated, and I find that Albany Hotel, Inc., d/b/a Albany Crowne Plaza Hotel ("Employer") is a New York corporation with a principal place of business located on State and Lodge Street, Albany, New York, the only facility involved herein, where it is engaged in the operation of a hotel. During the past twelve months, a representative period, the Employer realized gross revenues in excess of \$500,000, and purchased and received at its Albany, New York facility goods and materials valued in

excess of \$50,000 directly from points located outside the State of New York. Based on these facts, and the parties' stipulations, I find that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

The parties stipulated, and I find, that the Rochester Regional Joint Board, Local 471 ("Petitioner") is a labor organization within the meaning of Section 2(5) of the Act.

Petitioner and the Employer have been parties to successive collective-bargaining agreements and, at the time of the hearing, were parties to a collective-bargaining agreement in effect from May 1, 2007 through April 30, 2010. Article 1 of the collective-bargaining agreement defines the bargaining unit (hereinafter the "Unit") as:

All regular full-time and regular part-time employees including House Person, Room Attendant-Laundry, Inspector, Bell Person, Bus Person, First Cook, Second Cook, Kitchen Utility, Maintenance employees, Bartenders, Hostess/Host, Banquet servers, Banquet Bartenders, Prep Cook, Room Service Attendant, Room Service Cashier, Concierge, commercial Cleaner, Barback, Door Person, Banquet Captain, Guest Service Agent, Night Auditors, but excluding all other employees, office clerical employees, cashiers, guards and supervisors as defined in the Act.

The record demonstrates that Petitioner has been the certified collective-bargaining representative of the Unit since February 1, 1985.

The sole issue is whether the newly-created classification of parking attendant should be accreted to the existing Unit represented by Petitioner. Petitioner takes the position that the parking attendant classification shares a sufficient community of interest with other classifications within the Unit to allow the classification to be accreted to the Unit. The Employer argues that the parking attendant classification does not share a sufficient community of interest with other classifications within the Unit, and therefore should not be accreted to the Unit. There are approximately 5 employees in the parking

attendant classification, and approximately 145 employees currently employed in the Unit.

Based on the record herein, I find that Petitioner has failed to meet its burden in demonstrating that the parking attendant classification shares an overwhelming community of interest with the employees in the bargaining unit as to mandate their inclusion in the bargaining unit. Accordingly, I shall dismiss the petition filed by Petitioner seeking to clarify the existing bargaining Unit to include the parking attendant classification.

Facts

The Employer operates a 15-story, full-service hotel in Albany, New York that consists of 384 guest rooms and approximately 25,000 feet of meeting space. Floors 2 through 15 consist primarily of guest rooms. Floor one, the main floor, and the two floors beneath floor one, known as “A” and “B,” contain the hotel’s administrative offices and public space, which includes a fitness center, swimming pool and event and meeting space. These three floors also contain housekeeping offices, the housekeeping laundry area, and the employee cafeteria. The Employer also operates Webster’s Corner, a restaurant, and Kelsey’s, a tavern, both of which are located inside the hotel. The main entrance to the hotel is located on Lodge Street, and is approximately 55 yards away from the intersection of Lodge Street and Pine Street.

Attached to the hotel is a 7-story parking garage which is open 7 days a week and 24 hours each day. The parking garage, unlike the hotel, is an open-air facility, and therefore is not climate-controlled, with the exception of portable heating and cooling devices located in the two parking booths. The parking garage serves hotel guests, monthly parkers, and the public at large. Approximately 50 percent of the parking garage revenue is attributed to monthly parkers, none of whom are hotel guests. Approximately

35 percent of the parking garage revenue is attributed to hotel guests. The remainder of the parking garage revenue is attributed to daily parking and special event parking.

Inside the parking garage is an employee work area, an employee wash room and an office. These facilities are utilized by parking attendants and parking management. There is no restriction on parking attendants using employee wash rooms within the hotel.

There are two entrances to the parking garage. The main entrance to the parking garage, off of Pine Street, is located on the east side of the parking garage. That entrance is located approximately 30 to 35 yards away from the intersection of Lodge Street and Pine Street. Customers can enter and exit the garage from the main entrance. Two parking booths are located at the main entrance. Normally, only one booth is used for business transactions. The other booth is generally vacant, as it serves the lane primarily used by monthly parkers who utilize a card to enter and exit the facility. A second entrance, located at the northwest corner of the garage, is located approximately 40 to 45 yards from the main entrance to the hotel. Customers can enter the parking garage from this entrance, but must exit through one of the two parking booths located at the main entrance.

Although the parking garage is attached to the hotel, there is neither a tunnel nor a walkway connecting the two structures. Anyone walking from one building to the other must walk outside to do so.

Prior to July 1, 2009, the parking garage was owned by Laz Parking, an entity independent from the Employer. The Employer contracted with Laz Parking to provide parking services for the hotel, and all parking attendants working at the parking garage were employees of Laz Parking. As of July 1, 2009, the Employer assumed ownership

and operation of the parking garage, and all parking attendants working at the parking garage became employees of the Employer.¹

When the Employer assumed ownership of the parking garage, it hired Daryl Lewis to serve as the Parking Manager. The decision to hire Lewis was made by Todd Reichelt, the Employer's General Manager. In addition, the Employer employs Craig Mahoney as the Assistant Parking Manager. Lewis and Mahoney both directly supervise all parking attendants, and are the only individuals that provide daily supervision of the parking attendants.² Neither Mahoney nor Lewis supervise any other employee of the Employer. Mahoney reports directly to Lewis, and Lewis reports directly to Reichelt. Reichelt is only present in the parking garage on occasion. When present, Reichelt only speaks with the parking managers, and does not provide direction to the parking attendants.

There are three parking attendant shifts available during each 24-hour period: shift one, which runs from 11:00 p.m. until 7:00 a.m.; shift two, which runs from 7:00 a.m. until 3:00 p.m.; and shift three, which runs from 3:00 p.m. until 11:00 p.m. Depending on the expected volume of a shift, either one or two parking attendants are scheduled to work a given shift. Two attendants are typically scheduled to work during shifts two and three, which are generally the busier shifts, and one attendant is scheduled to work shift one, which is generally the least busy shift. However, the number of parking attendants scheduled can change based on the availability of the attendants.

All of the Employer's employees, including bargaining unit members, are provided with an employee handbook, which outlines the rights and obligations of each employee. Page three of the employee handbook states that if an employee "is covered

¹ Since July 1, 2009, the parking garage has been owned by Lodgian, Inc. the Employer's parent company.

² The parties have stipulated that both Mahoney and Lewis are supervisors as defined by Section 2(11) of the Act.

under a collective bargaining agreement and a conflict exists between the provisions of [the employee handbook] and the provisions of the collective bargaining agreement, the collective bargaining agreement will govern.” Terms and conditions of employment covered in the employee handbook which are not covered by the collective-bargaining agreement apply to all of the Employer’s employees, regardless of whether they are members of the bargaining unit. The parking attendants were provided with the employee handbook upon becoming employees of the Employer.

A comparison of the collective-bargaining agreement and the employee handbook reveals several differences in employee benefits. Specifically, bargaining unit and non-unit employees have different vacation benefits, vision insurance, premium contributions for medical and dental insurance, availability of long-term disability and voluntary life insurance, education assistance, retirement plans, and sick leave.

Since July 1, 2009, no parking attendant has transferred into a bargaining unit position and conversely, no bargaining unit member has transferred to the parking garage. Parking attendants are not precluded from transferring into a position within the bargaining unit, but qualified bargaining unit employees have priority over non-bargaining unit employees for any such open position. One parking attendant has attempted to transfer to an open bell person position, a position within the bargaining unit, but was unable to obtain the transfer because a bargaining unit member had also requested to transfer into the open bell person position. There is no cross-training available for parking attendants to learn the job functions of the bargaining unit positions, and similarly no cross-training available for bargaining unit members to learn the job functions of the parking attendants.

Bargaining unit members are occasionally able to work in other bargaining unit classifications. For instance, a housekeeping employee can work in laundry, or a

bartender can work as banquet bartender. However, bargaining unit employees never fill in for a late or absent parking attendant. Rather, the Employer attempts to have another parking attendant cover the absence if necessary. Parking attendants do not fill in for late or absent bargaining unit members.

The majority of the parking attendants' duties arise within and around the parking garage. Parking attendants are responsible for acting as a cashier for all individuals exiting the garage with the exception of monthly parkers (who pay a monthly fee, and therefore do not pay upon exiting the garage). Upon entering the parking garage, a non-monthly parker receives an automated ticket from a ticket machine. Upon leaving the parking facility, the parker must exit via the main entrance and provide a parking attendant located inside the parking booth with that automated ticket. The attendant then determines how much is owed by processing that ticket through a cash register. The cash registers within the parking booths are different than those located within the hotel. If the parking attendant needs money to make change, he can go to the cashier's window at the accounting office, located on level A within the hotel, to obtain additional funds.

Often times, while acting as a cashier, the parking attendant will interact with parking garage patrons, many of whom are hotel guests. These interactions include making change, assisting with problems entering or exiting the garage, answering questions related to the parking garage and the hotel, and providing directions.

Parking attendants are also responsible for picking up garbage in the garage, emptying trash containers located in the garage, creating incident reports as warranted, and performing minor repairs throughout the garage. Should either the parking attendants or managers be unable complete a repair, an outside contactor is contacted to correct the problem. In the rare instance that there is a problem with the elevators within the parking garage that results in people being trapped in the elevator, the Employer's

maintenance employees, who are members of the bargaining unit, are contacted to communicate with the trapped individuals while waiting for an outside contractor to arrive.³

Parking attendants are responsible for snow removal around the outside perimeter of the parking garage only. The Employer's maintenance employees provide snow removal services for the hotel. Parking attendants have access to a snow blower which is for use within and around the parking garage only.

Parking attendants are also responsible for providing valet service which is, at times, utilized by guests arriving by personal vehicle. The valet service consists of greeting the guest upon arrival, collecting the guest's information, including name and room number, providing the guest with a valet ticket, checking the vehicle for any pre-existing damage, and then driving the vehicle to the parking garage and parking it in the parking garage. During shifts where multiple parking attendants are working, one attendant is assigned to perform the valet service but still spends the majority of the shift performing routine tasks in the parking garage. As the valet, the parking attendant is usually notified by a door person, a bell person, or a front desk employee via telephone or two-way radio that a hotel guest desires the valet service, and then proceeds immediately to the front of the hotel to provide the service. Approximately 10 percent of the time, the valet is already stationed at the hotel entrance. On those occasions, he provides the valet ticket to the customer directly, though this only occurs during extremely busy periods. Approximately 90 percent of the time, there is no valet stationed at the main entrance. In these instances, the valet ticket is provided to the guest by either the door person or the bell person, and the guest leaves the car parked in front of the hotel entrance. Neither the bell person nor the door person moves the car. Rather, that task is performed by either

³ The record does not disclose any details about whether, or when, this has occurred.

the parking attendant or the parking manager who comes to retrieve the vehicle. During a select few events where there is an inordinate amount of vehicle traffic in front of the hotel, the valet stationed at the main entrance may assist the bell person and the door person in directing traffic and maintaining a smooth traffic flow.⁴

At the end of each shift, a parking attendant is required to collect the cash generated during the shift and perform a cash drop in a safe located behind the front desk of the hotel. Prior to performing the cash drop, the parking attendant writes the amount of the cash drop on a form. The Employer requires that another person, usually a front desk manager or employee, witness the cash drop and then initial the form filled out by the parking attendant affirming that the employee has done so. This process takes anywhere from two to ten minutes depending on the availability of a witness.

Parking attendants are hourly employees who earn approximately \$10.00 per hour. Bargaining unit employees earn between \$4.99 and \$12.17 per hour. As hourly employees, they are required to punch time clocks at the beginning and end of their shifts and at the beginning and end of their lunch break. The time clocks used by the parking attendants, located on levels A and B of the hotel, are also utilized by all members of the bargaining unit.

Parking attendants are required to wear uniforms which consist of an outer jacket, a polo shirt and a stocking cap. Parking attendants are required to provide their own black pants. The uniform is a red, burgundy and black color scheme, and each part of the uniform contains the Crown Plaza emblem. Prior to July 1, 2009, when Laz Parking owned the parking garage, parking attendants wore a navy blue uniform. No other employee classification wears the same uniform as the parking attendants. The color scheme worn by the parking attendants is slightly different than the color scheme worn

⁴ The record is silent as to the frequency with which these events occur.

by all other bargaining unit employees. Parking attendants are the only employees provided with hats containing the Crown Plaza insignia. Parking attendants are the only employees provided with a lanyard containing an identification badge in a plastic holder for identification. All other employees are provided nametags. Two other unit classifications, the door persons and the bell persons, are provided with outerwear. Door persons are provided with a black wool coat, and bell persons are provided with nylon outerwear. All outerwear provided by the Employer contains the Crown Plaza emblem.

All employees have access to the employee cafeteria. Prior to July 1, 2009, parking attendants were not provided meals at the employee cafeteria.⁵ Since that time, parking attendants have been provided with a free meal for each shift worked.

Bargaining unit employees, pursuant to the collective-bargaining agreement, are charged 75 cents for a meal for each shift worked in excess of 6 hours.

Bargaining unit employees who wish to smoke during their breaks are permitted to do so in an outdoor area located just outside of the hotel's A-level. Parking attendants who wish to smoke during their breaks are permitted to do so down the street from the parking garage, away from the hotel.

Analysis

The Board has consistently held that the accretion doctrine "should be applied restrictively since it deprives the new employees of the opportunity to express their desires regarding membership in the existing [bargaining] [u]nit." Archer Daniels Midland Co., 333 NLRB 673, 675 (2001); Save-It Discount Foods, 263 NLRB 689, 693 (1982); Westwood Import Co., 251 NLRB 1213, 1220 (1980). As a result of the drastic consequences of an accretion finding, the Board has held that an accretion is valid "only when the additional employees have little or no separate group identity and thus cannot

⁵ The record is silent as to whether parking attendants were allowed use of the employee cafeteria prior to July 1, 2009.

be considered to be a separate appropriate unit and when the additional employees share an overwhelming community of interest with the preexisting unit to which they are accreted.” Safeway Stores, 256 NLRB 918 (1981); *see also* Frontier Telephone of Rochester, Inc., 344 NLRB 1270, 1271 (1995); E.I. DuPont, Inc., 341 NLRB 607, 608 (2004), *quoting* Ready Mix USA, Inc., 340 NLRB 946, 954 (2003).

In determining whether a new operation should be accreted into an existing unit, the Board gives weight to several factors, including integration of operations, centralization of management and administrative control, geographic proximity, similarity of working conditions, skills and functions, common control of labor relations, collective-bargaining history, degree of separate daily supervision, and degree of employee interchange. Safety Carrier, Inc., 306 NLRB 960, 969 (1992). Because it is rare that all of the factors would point for or against an accretion, the Board weighs whether the factors, as a whole, merit an accretion finding. Frontier Telephone of Rochester, Inc., 344 NLRB at 1271. The Board has held that the “two most important factors” to be considered are employee interchange and common day-to-day supervision, and that “the absence of these two factors will ordinarily defeat a lawful claim of accretion.” Id. at 1271 and fn. 7; *see also* Super Valu Stores, Inc., 283 NLRB 134, 136 (1987), Towne Ford Sales, 270 NLRB 311, 312 (1984).

In applying those criteria to the instant matter, I find that the parking attendants do not share such an overwhelming community of interest with members of the existing bargaining unit as to mandate their inclusion in the bargaining unit. Such a finding is not only strongly supported by a review of the two critical factors noted above, specifically interchange and common supervision, but also by a review of the other relevant factors.

Employee Interchange

In examining evidence of interchange, the Board distinguishes between temporary and permanent interchange, and “regard[s] permanent transfers to be a less significant indication of actual interchange than temporary transfers.” Frontier Telephone of Rochester, Inc., 344 NLRB at 1272, *quoting* Novato Disposal Services, 330 NLRB 632, fn. 3 (2000). In Milwaukee City Center, LLC, 354 NLRB No. 77 (September 21, 2009), the Board reversed the Regional Director’s decision to accrete a group of Starbucks coffee shop employees into an existing unit of food, beverage and other employees. In doing so, the Board found that there was no interchange between employees of a Starbucks located inside the employer’s hotel and the members of the bargaining unit, which consisted of various hotel employees. In so finding, the Board noted that there had never been any temporary interchange and only infrequent permanent interchange between the Starbucks employees and the members of the bargaining unit, and that the petitioner union had failed to establish the requisite amount of employee interchange to support an accretion finding.

In the instant matter, there is even less evidence of interchange than in Milwaukee City Center. In this regard, the record fails to reveal any evidence of either permanent or temporary employee interchange, even infrequently, between the parking attendants and other members of the bargaining unit. Regarding temporary interchange, there is no evidence that bargaining unit employees ever fill in for a late or absent parking attendant. To the contrary, the Employer utilizes another parking attendant to cover the absence if necessary. Additionally, parking attendants do not fill in for late or absent bargaining unit members. Regarding permanent interchange, there is no evidence that a parking attendant has ever transferred into a bargaining unit position, nor any evidence that a bargaining unit member has ever transferred into the parking attendant position. Further,

there are no training programs available for parking attendants to learn the job function of any bargaining unit position. Thus, I agree, as noted by the Employer in post-hearing brief, that the record fails to establish any evidence of either permanent or temporary interchange between parking attendants and bargaining unit employees.

Additionally, the record reflects that parking attendants and managers shoulder nearly all responsibility for maintaining both the inside and the outside perimeter of the parking garage, and further reflects that no bargaining unit employee is responsible for maintaining those areas. In fact, parking attendants are provided equipment by the Employer specifically dedicated to that task, while bargaining unit employees responsible for maintaining the areas outside the hotel use other equipment to do so. Further, parking attendants spend nearly all of their time in the parking garage, while the bargaining unit employees spend their time either inside the hotel or just outside the main entrance of the hotel.

In the absence of any evidence of either permanent or temporary interchange between the parking attendants and the members of the bargaining unit, I find that there is no employee interchange that would mandate the parking attendants' inclusion in the bargaining unit.

Common Day-to-Day Supervision

A review of the record further reveals that there is no common day-to-day supervision of parking attendants and bargaining unit employees. The only daily supervision of parking attendants is by Parking Manager Daryl Lewis and Assistant Parking Manager Craig Mahoney. Neither Lewis nor Mahoney supervise any bargaining unit employees. Further, no other Employer manager or supervisor provides any daily supervision of parking attendants. In Milwaukee City Center, LLC, *supra*, the employees of the Starbucks located inside the hotel were supervised on a daily basis by the

Starbucks' manager. The Starbucks' manager provided no other supervision of any other employee employed within the hotel, including those employees working in other eating establishments within the hotel. Neither the managers of the other eating establishments within the hotel, nor any other manager, provided day-to-day supervision of the Starbucks employees. Based on these facts, the Board found that there was no common day-to-day supervision between the Starbucks employees and the other employees of the hotel.

Based on the foregoing, I find that there is no evidence common day-to-day supervision of parking attendants and bargaining unit employees.

The Petitioner, in its post-hearing brief, claims that General Manager Todd Reichelt's supervision of all of the Employer's departments illustrates common supervision of the parking attendants and bargaining unit employees. However, the mere fact that there is overall control by an individual does not establish the necessary day-to-day supervision needed for an accretion finding. *See* Frontier Telephone of Rochester, 344 NLRB at 1272, Towne Ford Sales, 270 NLRB at 312. Rather, the test, as articulated by the Board, is common *day-to-day supervision*. Herein, the record clearly demonstrates that Reichelt does not provide day-to-day supervision of either the parking attendants or any other bargaining unit employee. In this regard, Reichelt is not in the parking garage on daily basis, and when he is present, he neither speaks with, nor provides direction to, parking attendants. Thus, there is no evidence that Reichelt is involved in the common day-to-day supervision of parking attendants and bargaining unit employees.

An examination of the other, less determinative factors considered by the Board further illustrates that an accretion finding is not warranted in the instant matter.

Integration and Employee Interaction

I find that the parking garage is not so substantially integrated with the hotel as to mandate the inclusion of the parking attendants in the bargaining unit. Significantly, two-thirds of parking garage revenue is derived from individuals who are not hotel customers. Additionally, the parking garage uses a different kind of cash register than is used within the hotel, and the record reflects that any maintenance issues inside and around the perimeter of the parking garage are addressed solely by parking attendants, parking managers or outside contractors, and not by any members of the bargaining unit. The evidence of integration of operation contained in the record, including the fact that a substantial number of hotel guests park in the garage and that cash earned during a parking attendant's shift is deposited in a safe located at the front desk of the hotel, does not offset the substantial evidence to the contrary.

Petitioner argues that the work performed by the parking attendants, specifically the valet duties, is "functionally integrated" with the work performed by members of the bargaining unit. Petitioner relies on Progressive Service Die Co., 323 NLRB 183 (1997) and Continental Web Press, Inc. v. NLRB, 742 F.2d 1087 (7th Cir. 1984), both of which stand for the proposition that factory workers employed within the same facility are functionally integrated with each other. I find the cases cited by Petitioner to be distinguishable from the facts presented herein. In those cases, the employees worked on the same product, worked in the same areas, and interacted with each other on a daily basis. In the instant case, the parking attendants provide an entirely different service than the members of the bargaining unit, and work in a different area than members of the bargaining unit.

Petitioner relies on evidence of interaction between the parking attendants and the bargaining unit employees in support of its petition. Contrary to Petitioner, however, I

find that the parking attendants have very little interaction with bargaining unit employees as a result of valet services they provide to the Employer's guests. Regarding the vast majority of instances where the parking attendant responsible for valet is called by a bargaining unit employee, contact between the bargaining unit members stationed at the front of the hotel (the bell person and the door person) and the parking attendants is generally limited to either a brief radio or telephone communication, informing the parking attendants that there is a car to be picked up. Once the parking attendant arrives to pick up the car, there is minimal, if any, contact by the parking attendants with either the hotel guests, the bell person or the door person. Regarding the few instances where the parking attendant is positioned in front of the hotel for the purpose of providing valet service, the majority of his interaction is with the hotel guests, and the record contains little evidence of interaction with either the bell person or the door person. It is only in rare instances, such as a large event at the hotel which results in a substantial increase in traffic and the need for that traffic to be directed, that a parking attendant interacts with either the bell person or the door person while assisting in traffic direction.

The only other interaction attendants have with bargaining unit employees is the approximately 2 to 10 minute period at the end of a shift, when a front desk employee witnesses a parking attendant drop cash in the safe. Other than these brief, sporadic meetings between parking attendants and bargaining unit employees, the record provides little evidence of interaction between the two groups of employees.

Working Conditions

Despite Petitioner's claim to the contrary, the record provides substantial testimony indicating that the working conditions of the parking attendants are substantially different from the working conditions of the bargaining unit employees. For example, while parking attendants spend nearly all their work hours in an open-air

garage, bargaining unit employees spend nearly all of their time in a climate-controlled building. Further examples of distinctions between the parking attendants' working conditions and the bargaining unit employees' working conditions include a different smoking area, separate office space and, when accessible, their own restroom. Additionally, parking attendants do not wear the same type or color of uniform, or the same kind of identification badge as bargaining unit employees. Parking attendants, unlike bargaining unit employees, are entitled to free meals at the employee cafeteria. Parking attendants are paid different wages than bargaining unit members and receive a substantially different benefit package than members of the bargaining unit, including differences in both the types of benefits offered and the employee contribution to receive certain benefits. These substantial differences offset the few similarities in working conditions the parking attendants share with bargaining unit employees, including the use of the same time clock and a shared cafeteria.

Other Factors

A review of the collective-bargaining history between the Petitioner and the Employer establishes that the parking attendants have never been a part of the bargaining unit.

Though the record does provide evidence of centralization of management and administrative control,⁶ and evidence of geographic proximity,⁷ such evidence is insufficient to support a finding that the parking attendants share such an “overwhelming community of interest” with the members of the bargaining unit as to mandate their inclusion in the bargaining unit. Safeway Stores, 256 NLRB 918 (1981).

⁶ All Employer management, including parking management, reports to General Manager Reichelt.

⁷ The parking garage is appended to the hotel, and the entrances to the two facilities are no more than 100 yards from each other.

Finally, contrary to the Petitioner's claim, a separate unit for the parking attendants is not necessarily inappropriate or inefficient. My finding in the instant matter, that the parking attendants have a separate identity than the bargaining unit, clearly does not preclude the Petitioner, or any other bargaining representative, from attempting to organize a unit of the Employer's employees consisting solely of the parking attendants.

For the reasons set forth above, I am dismissing the petition for unit clarification.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by 5 p.m. EDT on **May 7, 2010**. The request may be filed electronically through the Agency's web site, www.nlr.gov,⁸ but may not be filed by facsimile.

DATED at Buffalo, New York this 23rd of April, 2010.

s/Michael J. Israel

MICHAEL J. ISRAEL

Acting Regional Director

National Labor Relations Board Region 3

Niagara Center Building

130 South Elmwood Avenue, Suite 630

Buffalo, New York 14202

⁸ To file the request for review electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlr.gov.